

ORAL ARGUMENT HELD JULY 7, 2025
Case No. 25-5097 (consolidated with 25-5098)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

GLOBAL HEALTH COUNCIL, *et al.*,
Appellees,

v.

DONALD J. TRUMP, IN HIS OFFICIAL CAPACITY AS
PRESIDENT OF THE UNITED STATES OF AMERICA, *et al.*,
Appellants.

On Appeal from the United States District Court
for the District of Columbia

**MOTION OF LAW SCHOLARS FOR INVITATION TO FILE BRIEF AS
AMICI CURIAE IN SUPPORT OF PLAINTIFFS-APPELLEES'
PETITION FOR REHEARING EN BANC**

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Pursuant to Federal Rule of Appellate Procedure 29(b) and D.C. Circuit Rules 29(b) and 40(f), Law Scholars William W. Buzbee, Noah Rosenblum, and Jodi Short respectfully move this Court for invitation to file a brief as *Amici Curiae* in support of Plaintiffs-Appellees' Petition for Rehearing En Banc in this case, Doc. 2130328. While D.C. Circuit Rule 40(f) provides that *amicus* briefs filed in support of rehearing en banc are not permitted absent an invitation from the Court, the Court regularly grants motions for invitations to file *amicus* briefs when the Court is considering whether to grant rehearing. *E.g.*, Order, *City of Port Isabel v. FERC*, No. 23-1174 (D.C. Cir. Nov. 12, 2024), Doc. 2084477. Counsel for Law Scholars *Amici* certifies that all Plaintiffs-Appellees consent to the relief requested herein and that Defendants-Appellants take no position.

Law Scholars *Amici* are law professors who teach and write in the fields of constitutional and administrative law. *Amicus* William W. Buzbee is the Edward and Carole Walter Professor of Law at Georgetown University Law Center. *Amicus* Noah Rosenblum is an Associate Professor of Law at New York University School of Law. *Amicus* Jodi Short is the Mary Kay Kane Distinguished Professor of Law at University of California College of Law, San Francisco.

Law Scholars *Amici* have a strong interest in the sound development of constitutional and administrative law in the federal courts. They participated in this proceeding because of the importance of the separation-of-powers issues

implicated by the Trump Administration's recent actions seeking to effectively eliminate the U.S. Agency for International Development ("USAID") and other congressionally created and funded agencies. To that end, Law Scholars *Amici* filed a brief in this proceeding on June 13, 2025, Doc. 2120799, and have filed elsewhere for similar reasons, *see* Brief of Law Scholars *Amici Curiae* in Support of Plaintiffs-Appellees, Including Affirmance of the District Court's Preliminary Injunction and Related Rulings, *New York v. Trump*, No. 25-1236 (1st Cir. July 25, 2025), Doc. 00118318727. As leading constitutional- and administrative-law scholars, Law Scholars *Amici* are well-positioned to provide insights concerning the separation-of-power principles at issue in this case.

Law Scholars *Amici* believe that rehearing en banc is warranted. The panel's Opinion in this case, Doc. 2129854, commits errors of exceptional importance regarding the proper relationship between Congress and the Executive Branch. As Judge Pan observed, "'our constitutional system of separation of powers will be significantly altered' because the court 'allows the Executive Branch to disregard federal law in the manner asserted in this case.'" *Id.* (quoting *In re Aiken Cnty.*, 725 F.3d 255, 267 (D.C. Cir. 2013)) (cleaned up).

While other *amici* have noted that the Opinion misapplies *Dalton v. Spencer*, 511 U.S. 462 (1994), Law Scholars *Amici* address this issue in a manner not yet covered. Law Scholars *Amici* also explain why rehearing en banc is necessary to

resolve a question of “exceptional importance.” Fed. R. App. P. 40(b)(2). Specifically, en banc review is necessary to preserve the Executive Branch’s constitutional duty to faithfully execute laws, preserve Justice Jackson’s separation-of-powers analysis in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), and will allow better alignment of judicial review of Executive Branch actions. Law Scholars *Amici* believe that the attached brief will assist the Court in reaching a decision on the petitions for rehearing en banc.

For the foregoing reasons, Law Scholars *Amici* respectfully request that the Court grant this motion and invite the filing of the attached brief.

Dated: August 21, 2025

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the type-volume limitations set forth in Fed. R. App. P. 27(d)(2) because this motion contains 573 words. The foregoing motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: August 21, 2025

/s/ Patrick R. Jacobi
Patrick R. Jacobi

CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of August, 2025, I caused the foregoing Motion of Law Scholars for Invitation to File Brief as *Amici Curiae* in Support of Plaintiffs-Appellees' Petition for Rehearing En Banc to be electronically filed with the Clerk of the Court for the U.S. Court of Appeals for the District of Columbia Circuit using the Court's CM/ECF system, which constitutes service on all parties and parties' counsel who are registered ECF filers.

/s/ Patrick R. Jacobi

Patrick R. Jacobi